

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #04	CCRB Case #: 202004684	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 8:15 PM	Location of Incident: In front of 17 Battery Place	Precinct: 01	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/17/2020 7:30 PM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 06/29/2020 11:30 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. CPT Ronald Ramos	00000	935562	SRG 4
3. POM Dennis Ustelimov	13541	957238	SRG 3
4. INS Gerard Dowling	00000	915640	SRG
5. DI James Mcgeown	00000	889041	SRG
6. LT John Egan	00000	930093	SRG 4

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Matthew Manley	4336	949249	SRG 3
2. POM Alfredo Jeff	29583	954975	SRG 3
3. SGT Kieran Higgins	971	941903	SRG 5
4. LT Peter Sotiriou	00000	924515	SRG 3
5. POF Alexis Martinez	18168	953056	SRG 4
6. POM Edward Mendez	00689	933017	SRG 1
7. POM Yefersson Salasmartinez	15419	957123	SRG 1
8. SGT Joseph Deallaume	01412	921057	SRG 2
9. POM Allen Rice	09254	944933	SRG 3
10. SGT David Lamarre	03547	947929	SRG 3
11. SGT Catherine Kunst	01788	943284	SRG 4

Officer(s)	Allegation	Investigator Recommendation
A. DI James Mcgeown	Force: Deputy Inspector James Mcgeown used physical force against § 87(2)(b)	
B. INS Gerard Dowling	Force: Gerard Dowling used physical force against § 87(2)(b)	
C. CPT Ronald Ramos	Force: Ronald Ramos used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.POM Dennis Ustelimov	Force: Police Officer Dennis Ustelimov used physical force against § 87(2)(b)	
E.INS Gerard Dowling	Force: Inspector Gerard Dowling used physical force against § 87(2)(b)	
F.LT John Egan	Force: Lieutenant John Egan used physical force against § 87(2)(b)	
G. Officers	Force: Officers struck § 87(2)(b) with a baton.	
H. Officers	Force: Officers used physical force against § 87(2)(b)	
I. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b)	

Case Summary

On June 17, 2020, § 87(2)(b) a reporting non-witness, filed this complaint with IAB (**01 Board Review**) on behalf of § 87(2)(b) § 87(2)(b) and § 87(2)(b). On June 29, 2020, this complaint was received by the CCRB.

This complaint was originally assigned to Investigator John Guzman and was re-assigned to Investigator Edward Tsigel and then Supervising Investigator Tessa Yesselman.

On June 2, 2020, at approximately 8:15 PM, § 87(2)(b) § 87(2)(b) and § 87(2)(b) were at a protest against police brutality in front of 17 Battery Place in Manhattan. Deputy Inspector James McGeown pushed § 87(2)(b) (**Allegation A: Force**, § 87(2)(g) Inspector Gerard Dowling, of SRG, used physical force against § 87(2)(b) (**Allegation B: Force**, § 87(2)(g) An officer allegedly restricted § 87(2)(b) breathing and spoke discourteously to her (**Allegation C: Force**, § 87(2)(g) and **Allegation D: Discourtesy**, § 87(2)(g) Captain Ronald Ramos, of SRG 4, and Police Officer Dennis Ustelimov, of SRG 3, brought § 87(2)(b) to the ground (**Allegation E** and **Allegation F: Force**, § 87(2)(g) Ins. Dowling used force against § 87(2)(b) (**Allegation G: Force**, § 87(2)(g) Lieutenant John Egan used force against § 87(2)(b) (**Allegation H: Force**, § 87(2)(g) Officers struck § 87(2)(b) with batons (**Allegation I: Force**, § 87(2)(g) an officer punched and kicked § 87(2)(b) (**Allegation J** and **Allegation K: Force**, § 87(2)(g) and an officer spoke discourteously to § 87(2)(b) (**Allegation L: Discourtesy**, § 87(2)(g)

§ 87(2)(b) (**10 Board Review**) and § 87(2)(b) (**08 Board Review**) were issued a summons for violating the curfew. § 87(2)(b) (**07 Board Review**) was issued a desk appearance ticket for resisting arrest.

The CCRB received BWC of this incident (**Board Review 31-Board Review 60**), and a cell phone video (**Board Review 3**).

Findings and Recommendations

Allegation (A) Force: Deputy Inspector James McGeown used physical force against § 87(2)(b)

Allegation (B) Force: Inspector Gerard Dowling used physical force against § 87(2)(b)

Allegation (C) Force: An officer restricted § 87(2)(b) breathing.

Allegation (D) Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) (**06 Board Review**) stated that she saw DI McGeown grab § 87(2)(b) § 87(2)(b) started walking towards § 87(2)(b) to assist her. § 87(2)(b) was holding a protest sign and put her hands up in the air. Before § 87(2)(b) reached § 87(2)(b) DI McGeown pushed her one time by the shoulders. DI McGeown backed away from § 87(2)(b) after pushing her. A group of officers approached § 87(2)(b) including Ins. Dowling. Ins. Dowling grabbed § 87(2)(b) by her hair, which was styled into a braid, and pulled her to the ground. § 87(2)(b) landed face down on the ground. § 87(2)(b) tried to “squirm” away from the officers by moving her legs around. PO2 placed his knee into § 87(2)(b) back. § 87(2)(b) yelled repeatedly that she could not breathe. An unknown officer said, “Shut up bitch, yes you can” to § 87(2)(b) § 87(2)(b) could not see which officer made that statement, because she was face down on the ground. An unknown civilian protester pushed PO2 off of § 87(2)(b)

§ 87(2)(b) back. An unknown officer put zip ties on to § 87(2)(b) wrists and stood her up off of the ground.

Ins. Dowling (**12 Board Review**) stated that he observed § 87(2)(b) rush towards DI McGeown. DI McGeown pushed § 87(2)(b) away from him. § 87(2)(b) was in violation of the curfew and was entering a “zone of safety” where officers were arresting other protesters. § 87(2)(b) was holding a sign and was “waving” it towards officers attempting to arrest protesters. Ins. Dowling approached § 87(2)(b) and tried to pull her away from the officers by grabbing her left arm. § 87(2)(b) pulled her arm away from him. Ins. Dowling stated that in response to § 87(2)(b) pulling her arm away, he thought he grabbed her by the collar of her shirt and brought her to the ground in a controlled takedown. Ins. Dowling stated that he had seen video of this incident, and now knew that he had taken § 87(2)(b) to the ground by her hair. § 87(2)(b) landed face down on the ground. Ins. Dowling held on to her on the ground to keep her from moving, but did not remember specifically what actions he took. Additional officers approached and assisted Ins. Dowling in taking § 87(2)(b) into custody. Ins. Dowling did not know who these officers were. Ins. Dowling did not hear § 87(2)(b) stating that she could not breathe and stated that none of the law enforcement actions taken against her would have restricted her breathing.

Ins. Dowling was shown cellphone video footage taken by § 87(2)(b) (**03 Board Review**). Ins. Dowling identified himself as the officer who took § 87(2)(b) to the ground by her hair at :10. Ins. Dowling heard someone saying that could not breathe, but did not know who was saying it, and reiterated that nothing shown in the video would have restricted § 87(2)(b) breathing. Ins. Dowling identified DI McGeown as the officer who pushed § 87(2)(b) at the beginning of the video. Ins. Dowling was unable to identify any other officer shown in the video.

DI McGeown (**24 Board Review**) did not recall this incident. DI McGeown stated that he was present at the protest but did not recall any specific interactions he had. DI McGeown was shown cell phone video taken by § 87(2)(b) (**03 Board Review**). DI McGeown thought that the officer from :00-:05 in the white shirt is him. After viewing the video, DI McGeown “vaguely” recalled the interaction and stated that there were arrests being made by various officers and people trying to interrupt those arrests. § 87(2)(b) was one of the people attempting to interfere with the arrests. DI McGeown did not recognize any other officer pictured in the video. DI McGeown did not recall if he was involved in taking § 87(2)(b) to the ground. DI McGeown did not hear any officer call § 87(2)(b) “A bitch.” DI McGeown did not see any officer putting their knee in § 87(2)(b) back or otherwise restricting her breathing. DI McGeown did not hear § 87(2)(b) say that she could not breathe.

§ 87(2)(b) was issued a summons (**08 Board Review**) for violating the curfew by Police Officer Alfredo Jeff. PO Jeff’s BWC (**31 Board Review**) shows that his interaction with her began after she had been taken into custody and walked to the holding area.

The investigation obtained cellphone video taken by § 87(2)(b) (**03 Board Review**). At :02, DI McGeown, wearing a white NYP uniform shirt, pushes § 87(2)(b). An unidentified officer in a navy blue uniform grabs at § 87(2)(b) hands. At :17, Ins. Dowling runs towards § 87(2)(b). § 87(2)(b) grabs her by the hair and wrist and pulls her to the ground. An unidentified officer in dressed in navy blue, puts his knee on § 87(2)(b) back when she is face down on the ground.

The investigation obtained 38 BWC videos of this protest (**Board Review 31-Board Review 60**). None of the videos captured these allegations.

Requests made by the CCRB to the NYPD for a medical treatment of prisoner form (18 Board Review) and TRI (22 Board Review) for § 87(2)(b) returned negative results. Officers from SRG 2, 4, 5, and 5 (Board Review 61-Board Review 63) were present at this incident. The roll call for Patrol Borough Manhattan South showed that the command had 20 officers assigned to protest details on the date of the incident. The Mass Arrest Processing Center (MAPC) (10 Board Review) shows that on June 2, 2020, into the early morning hours of June 3, 2020, 254 civilians were brought into custody.

The CCRB has six additional cases § 87(2)(b) stemming from the same protest at West Street in Manhattan. The CCRB interviewed multiple supervisors who were involved in this protest. Inspector Gerard Dowling (12 Board Review), Deputy Inspector James McGeown (Interviewed for case# § 87(2)(b) Deputy Inspector Ronald Zedalis (Interviewed for case# § 87(2)(b) Captain Ronald Ramos (13 Board Review), Lieutenant William Buchanan (Interviewed for case# § 87(2)(b) and Lieutenant Michael Jennings (Interviewed for case# § 87(2)(b) were all present during this protest and all stated that they did not issue any instructions to officers regarding making arrests or issuing summonses if a civilian violated the 8:00 PM curfew during the protest.

NYPD Patrol Guide Procedure 221-01 (11 Board Review) states that officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise to protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, members of the service should consider several factors including the nature and severity of the crime/circumstance and the actions taken by the subject.

It is undisputed that § 87(2)(b) was attempting to intervene in § 87(2)(b) arrest. § 87(2)(g)

It is undisputed that Ins. Dowling grabbed and pulled § 87(2)(b) by the hair. Ins. Dowling stated that he did so unintentionally and meant to grab the collar of § 87(2)(b) shirt. It is undisputed that § 87(2)(b) was violating the city mandated curfew and was attempting to intervene in § 87(2)(b) arrest. § 87(2)(g)

§ 87(2)(g)

Allegation (E) Force: Captain Ronald Ramos used physical force against § 87(2)(b)

Allegation (F) Force: Police Officer Dennis Ustelimov used physical force against § 87(2)(b)

Allegation (G) Force: Inspector Gerard Dowling used physical force against § 87(2)(b)

§ 87(2)(b) **(05 Board Review)** stated that she heard a police officer say “Charge,” as officers were surrounding the protesters. The protesters began to disperse in all different directions. § 87(2)(b) saw a group of police officers moving towards § 87(2)(b) and saw PO1 approaching her. § 87(2)(b) started walking backwards, away from PO1, and backed into PO2. PO2 put his arms around § 87(2)(b) waist, and CV1, an unknown protester, grabbed § 87(2)(b) out of PO2’s grasp and pushed her to the side, away from PO2. § 87(2)(b) fell to the ground and then stood up. § 87(2)(b) declined to provide specific details about what happened next, but an unspecified number of officers took her to the ground, such that her knees were on the ground and her arms were pulled behind her back. Officers lifted § 87(2)(b) off of the ground by her arms to take her knees out from under her, and pushed her face first on to the ground. § 87(2)(b) head hit against the pavement. An officer put zip ties on to her wrist and the group of officers pulled § 87(2)(b) on to her feet. § 87(2)(b) could not describe what any of these officers looked like.

Captain Ramos **(13 Board Review)** stated that he exited his vehicle at the corner of Battery Place and West Street. Capt. Ramos observed a large group of officers and civilians. Officers were trying to make arrests and civilians were running away. Captain Ramos observed an officer arresting § 87(2)(b). Captain Ramos ran towards § 87(2)(b) who was face down on the ground. Captain Ramos stated that he assisted in handcuffing § 87(2)(b) by bringing her hands together and lifting § 87(2)(b) to her feet. Capt. Ramos believe approximately two officers were in the process of arresting § 87(2)(b). Capt. Ramos could not identify any other officers present. Capt. Ramos did not hit § 87(2)(b) head against the pavement and did not see any other officer do so.

PO Ustelimov **(16 Board Review)** stated that he saw Captain Ramos and several other officers surrounding § 87(2)(b) to take her into custody. PO Ustelimov ran up to the officers to assist. PO Ustelimov did not recall if § 87(2)(b) was on the ground already when he reached the group or if he assisted in pushing her down to the ground. PO Ustelimov assumed that § 87(2)(b) was being taken into custody for violating the curfew. PO Ustelimov helped hold § 87(2)(b) arms behind her back and helped to stand her up off of the ground. PO Ustelimov did not hit § 87(2)(b) head against the ground and did not see any other officer do so. After § 87(2)(b) was standing, PO Ustelimov walked her to a holding area to be taken into custody. § 87(2)(b) had a scratch on her head and was bleeding.

At :00 of PO Ustemilov’s BWC **(42 Board Review)**, he runs towards three officers detaining § 87(2)(b). At :07, § 87(2)(b) runs towards a group of officers as they attempt to take someone into custody. Captain Ramos and PO Ustemilov appear to take § 87(2)(b) to the ground. She lands face first and PO Ustemilov grabs § 87(2)(b) left wrist, handcuffing her with Captain Ramos, who is kneeling next to § 87(2)(b) right hand side.

A TRI was prepared by Sgt. Manley of SRG 3 for PO Ustemilov **(21 Board Review)**. The TRI states that PO Ustemilov used a forcible takedown against § 87(2)(b) to overcome resistance or aggression, and in defense of other MOS. The TRI notes that § 87(2)(b) sustained a minor laceration and abrasion as a result of the takedown.

NYPD Patrol Guide Procedure 221-01 **(11 Board Review)** states that officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise to protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, members of the service should consider several factors including the nature and severity of the crime/circumstance and the actions taken by the

subject.

It is undisputed that § 87(2)(b) was in violation of the curfew and was attempting to physically intervene in § 87(2)(b) arrest. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Ins. Dowling (12 Board Review) stated that § 87(2)(b) attempted to interfere with § 87(2)(b) arrest. Ins. Dowling did not recall if he participated in taking § 87(2)(b) into custody. Ins. Dowling was shown § 87(2)(b) cell phone video and did not know if he was pictured in the video.

At :11 of § 87(2)(b) cell phone video (03 Board Review), Ins. Dowling is pictured grabbing § 87(2)(b) hair. He is pictured with a slightly unbuttoned white SRG uniform shirt with a patch on the left arm, wearing an Apple watch on his left wrist and a wedding ring on his left hand. At :26 of Sgt. Lamerre's BWC (43 Board Review), the investigation identified Ins. Dowling as the officer who pushes § 87(2)(b) head into the ground via his already established proximity to § 87(2)(b) the likeness of the white uniform shirt, the way it is worn, and the Apple watch and wedding ring.

§ 87(2)(b) provided a photograph to the investigation showing injury to her face (02 Board Review).

Cpt. Ramos and PO Ustelimov had § 87(2)(b) on the ground and were in the process of placing flex cuffs on to her wrists when Ins. Dowling pushed her face into the ground, causing a laceration and bleeding. § 87(2)(b) was in custody and on the ground surrounded by officers, and posed no physical threat to the officers, nor was she a threat to escape custody. § 87(2)(g)

§ 87(2)(b)

Allegation (H) Force: Lieutenant John Egan used physical force against § 87(2)(b)

Allegation (I) Force: Officers struck § 87(2)(b) with a baton.

Allegation (J) Force: An officer used physical force against § 87(2)(b)

Allegation (K) Force: An officer used physical force against § 87(2)(b)

Allegation (L) Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) (09 Board Review) stated that an officer, PO1, struck him with a baton in the leg three times. § 87(2)(b) could not describe what the officer looked like. PO2 also advanced towards § 87(2)(b) PO3 approached § 87(2)(b) and made a motion as if to swing his baton towards § 87(2)(b) in the same way PO1 had. § 87(2)(b) kicked the baton aside as he was simultaneously trying to get away from PO2. PO2 lost grip on the baton, which fell on the ground. § 87(2)(b) moved backwards, towards the street. PO1 asked for assistance and PO3 and PO4 appeared. PO1 charged at and gripped § 87(2)(b) legs as § 87(2)(b) pushed PO1 away. § 87(2)(b) fell to the ground and landed in a sitting position. § 87(2)(b) tried to move backwards while still in a sitting position. An officer § 87(2)(b) could not identify kicked § 87(2)(b) in the face once and hit him in the face with a baton once. § 87(2)(b) could not see which officer did this. § 87(2)(b) fell backwards and spun on to his stomach to try and push off the ground so that he could run away. PO1 again requested help from other officers. An unknown number of officers pinned him to the ground: PO1 was on one of § 87(2)(b) legs, two other officers were on his other leg, and one officer held onto each of § 87(2)(b) arms. § 87(2)(g)

§ 87(2)(b) could not move at this point and could not make out which officers were on holding him down. PO5 struck § 87(2)(b) twice with a baton, on his ribs and the back of his neck.

Sgt. Higgins (**14 Board Review**) stated that he observed § 87(2)(b) jump onto Lt. Egan's back. § 87(2)(b) and Lt. Egan fell to the ground. Approximately three officers approached Lt. Egan and § 87(2)(b) and struggled with § 87(2)(b). Sgt. Higgins did not know who these officers were and stated that all he remembered is that they were not from his command. Sgt. Higgins did not recall how the officers were struggling with § 87(2)(b) on the ground. Sgt. Higgins approached the group, grabbed one of § 87(2)(b) arms, and put it behind § 87(2)(b) back. Sgt. Higgins asked to § 87(2)(b) to put his other hand behind his back. Sgt. Higgins placed § 87(2)(b) in metal handcuffs. Sgt. Higgins did not recall using any profanity throughout the incident. Sgt. Higgins did not kick § 87(2)(b) in the face or see any officer kick him in the face. Sgt. Higgins did not strike § 87(2)(b) with a baton and did not see any officers strike him with a baton. Sgt. Higgins observed § 87(2)(b) kicking and punching at officers from the ground. Sgt. Higgins walked away from § 87(2)(b) after he was handcuffed and did not have any further interaction with him.

The investigation showed Sgt. Higgins' his BWC (**64 Board Review**) from the beginning of the footage through 5:00. Sgt. Higgins stated he did not recognize any officers. At 2:30, Sgt. Higgins did not know who said, "Turn the fuck over." Sgt. Higgins thought that he might be the officer yelling "handcuffs." Sgt. Higgins stated he did not know which officer said, "Get the fuck down." The investigation showed Sgt. Higgins IA 238's screenshot of Sgt. Lamarre's BWC. Sgt. Higgins did not recognize any officers.

At 2:33 of Sgt. Higgins' BWC (**64 Board Review**), an unknown officer says, "Let's go." Officers advance on protestors, breaking their line. At 2:34, an officer is holding onto the back of an individual who appears to be § 87(2)(b). § 87(2)(b) walks into this officer and makes physical contact, though it is unclear what exactly § 87(2)(b) does. Sgt. Higgins walks to § 87(2)(b) who is taken down by an unknown amount of officers. § 87(2)(b) is moving on the ground, and pushed from a sitting position by an unknown officer on to his back. At 2:49, an unknown officer strikes § 87(2)(b) twice with a baton in an off-camera location, in the area of his torso. At 2:53, Sgt. Higgins picks up a baton from the ground. At 2:57, an officer says, "Turn over, turn over, turn the fuck over." Officers turn § 87(2)(b) so that he is face down on the ground. Between 3:04 and 3:07, an unknown officer kneeling adjacent to § 87(2)(b) head, thrusts his baton towards § 87(2)(b) but it is unclear where the baton makes contact. At 3:10, an unknown officer says, "Get the fuck down, get the fuck down." An unknown officer is sitting on top of § 87(2)(b) torso.

Lt. Egan was not interviewed by the investigation. Lt. Egan was out sick on modified duty from June 2021 until December 2021. The investigation scheduled Lt. Egan for an interview for December 9, 2021. Lt. Egan did not appear for his scheduled interview because of a scheduling conflict with another court appointment. Lt. Egan was placed back on sick leave and remains inactive and assigned to Medical District 10 as of March 2022.

The CCRB received negative results for a TRI (**20 Board Review**) and MTPR (**17 Board Review**) for § 87(2)(b).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**25 Board Review**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**27 Board Review**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**29 Board Review**).
- Ins. Dowling has been a member-of-service for 26 years and has been a subject in 5 CCRB complaints and 14 allegations, none of which were substantiated.
- DI McGeown has been a member-of-service for 36 years and has been a subject in 6 CCRB cases and 11 allegations, none of which were substantiated.
- PO Ustelimov has been a member-of-service for seven years and this is the first CCRB complaint to which he has been a subject.
- Lt. Egan has been a member-of-service for 19 years and has been a subject in 12 CCRB cases and 17 allegations, none of which were substantiated.
- Cpt. Ramos has been a member-of-service for 14 years and has been a subject in 5 CCRB complaints and 14 allegations, of which one was substantiated.
 - CCRB case 202003717 involves a substantiated complaint of use of pepper spray. The Board recommended command discipline and the NYPD's decision is pending.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of January 14, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint. § 87(2)(b) the complainant in this case, filed a Notice of Claim from an incident at the same time and location as this case. § 87(2)(b)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 4

Investigator: <u>Tessa Yesselman</u>	<u>SI Tessa Yesselman</u>	<u>3/10/2022</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Raquel Velasquez</u>	<u>IM Raquel Velasquez</u>	<u>3/10/2022</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date

